

HAND DELIVERED

June 22, 2010

The Joint Standing Committee on Natural Resources  
of the 124<sup>th</sup> Maine Legislature  
100 State House Station  
Augusta, Maine 04333-0100

**RE: Waste Quantities in Maine  
As Projected by the Maine State Planning Office – Updated 2010**

Senator Goodall, Representative Duchesne and Members of the Committee:

The Municipal Review Committee, Inc. (the “MRC”), is writing to: 1) summarize our concerns (detailed letter attached) regarding projections of future solid waste quantities prepared recently by the Maine State Planning Office (the “SPO”) and 2) provide our views on related matters under review by the Committee this Summer

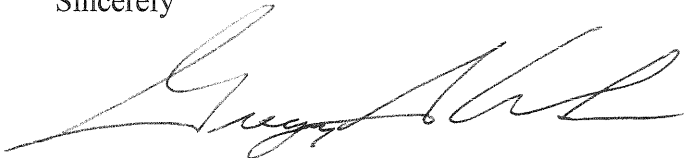
1. The MRC is concerned that the SPO is severely overestimating the quantities of solid waste to be generated in Maine in the coming years by using unsupportable projections to advocate for legislative changes and regulatory decisions governing solid waste management infrastructure. MRC is planning for its post 2018 future with less available waste & remains perplexed as to why SPO holds onto the notion that the future brings more solid waste generation, in direct conflict with many of its own waste management and recycling program objectives
2. The MRC rejects the SPO’s assertions that Maine generates, or will generate in the foreseeable future, sufficient MSW to enable its waste-to-energy facilities to operate at capacity. Maine continues to have more capacity for disposal of MSW at in-state waste-to-energy facilities than is generated in-state and requires disposal. On that basis, the MRC believes that Maine must carefully limit landfills from accepting MSW for disposal outright or, in some circumstances, tie to historical service practice.
3. The MRC urges the Committee to implement some type of capacity management for Maine landfills, for example annual fill rates that reflect the State’s production of waste. The Committee has heard reports indicating that the future fill rate at the state-owned

landfill will be much greater than was initially expected. Oversupply of landfill capacity can undermine the efforts to reduce waste and otherwise conform to the state's solid waste management hierarchy. Such a capacity management solution would not infringe upon the Interstate Commerce Clause, as the annual fill rate would affect in-state and out-of-state interests equally and would not discriminate against out-of-state interests.

4. It is unclear at this time what in-state municipal recycling processing and program needs will be, as member municipalities are seriously evaluating single sort recycling that would replace local processing of recyclables. Therefore, significantly increased recycling infrastructure may not be needed to sustain current processing programs, although some investments may be needed to expand existing programs to recover additional materials or to recover materials from new sources. However, more detailed analysis is needed to target wise recycling program investments.

The MRC stands ready to support the Committee as it continues to investigate these issues.

Sincerely

A handwritten signature in black ink, appearing to read "Greg Louder", written in a cursive style.

Greg Louder,  
Executive Director, MRC

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June 22, 2010

The Joint Standing Committee on Natural Resources  
of the 124<sup>th</sup> Maine Legislature (the Committee)  
100 State House Station  
Augusta, Maine 04333-0100

RE: SPO Projections of Growth in Solid Waste Quantities

Senator Goodall, Representative Duchesne and members of the Committee:

The Municipal Review Committee, Inc., (the "MRC"), which represents 187 municipalities in central, eastern and northern Maine that dispose of their municipal solid waste (MSW) at the Penobscot Energy Recovery Company ("PERC") facility, is writing to present additional information, and to express our concerns, regarding the growth rates for solid waste set forth in the Solid Waste Generation & Disposal Capacity Report for Calendar Year 2008, which was prepared in March 2010 (the "2010 Report") by the Maine State Planning Office (the SPO).

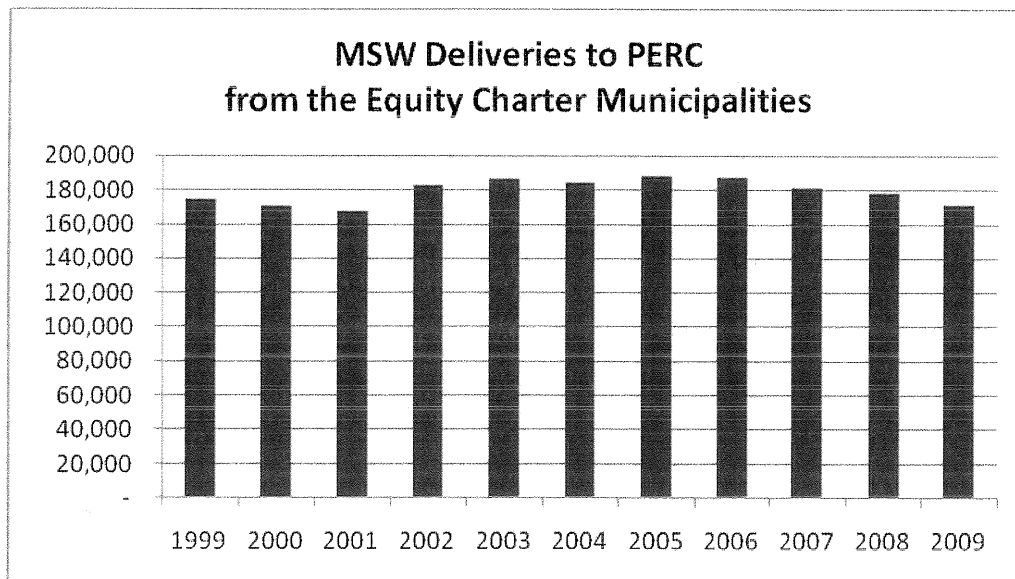
Specifically, the MRC is concerned that the 2010 Report continues to overestimate quantities of MSW to be generated in future years. The MRC disagrees with the SPO projections and, consequently, with their implications and recommendations.

In the 2010 Report, the SPO acknowledges that MSW generated in Maine decreased with the economic downturn (2010 Report, page 4). The MRC agrees. The MRC observed an overall decline in MSW generation in its member municipalities from 2008 to 2009 --- a decline that has continued into 2010.

In the 2010 Report, the SPO projects a continued decline in waste generation in 2009, zero percent growth in 2010 and 2011, and then, based on what it calls "averaging into the historical data the downturn years," an increase of 2.8% year in waste generation starting in 2012 (2010 Report, page 9). This projection represents a reduced rate of growth from the corresponding report issued by the SPO in 2009 (the 2009 Report), which was premised on an annual growth rate of 4.0% per year.

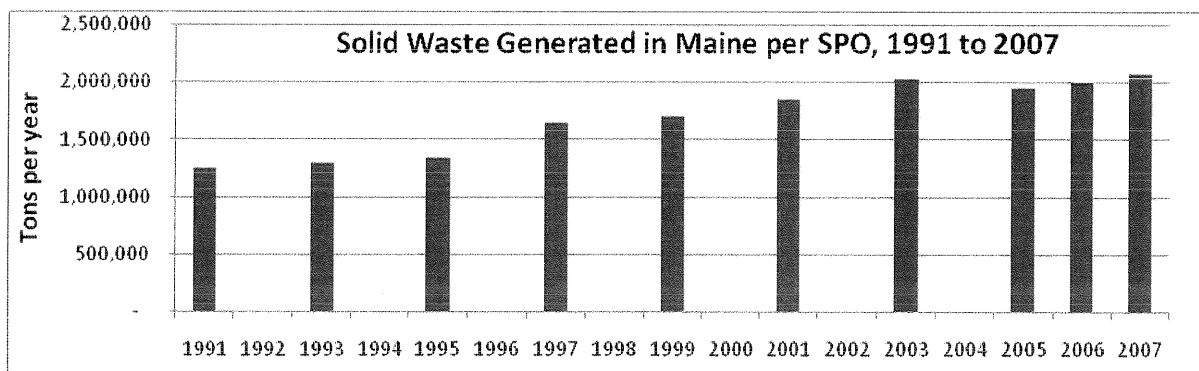
The MRC believes that the SPO projections of growth in the 2010 Report continue to be too high. In support, the MRC offers the following:

1. **MSW generation in Maine towns delivering MSW to PERC has declined, not increased, over the past 10 years.** The MRC has monitored quantities of MSW delivered by its member communities to the PERC facility on a monthly basis since 1998. Over that period, MSW deliveries from a constant set of 116 towns/regional associations have ranged from 174,337 tons in 1998 to 171,411 tons in 2009 – a slight decline over this 10-year period. In fact, MSW deliveries peaked at 187,759 tons in 2005 and have declined in each successive year since then at a compound annual rate of 2.3 percent per year. Thus, data from the towns sending their MSW to PERC support the statement that the quantities of MSW have been stable and/or declining rather than growing.



2. **This decline in MSW generation rates observed by the MRC is not linked solely to the recent economic downturn.** Rather, the decline started several years prior to the downturn and has continued despite recent improvements in economic conditions. This leads the MRC to believe that the decline in MSW generation rates is not a one-time or one-year phenomenon, but in fact is a wider consequence of recent increased attention being paid to waste reduction and environmental impact control in the context of emerging and growing concerns with global warming. This is a key reason why MRC is planning for a post-2018 solid waste future with less waste requiring disposal.
3. **The SPO's own data do not support a return to the rates of increase in waste generation experienced in prior decades.** Data from the SPO indicate that solid waste quantities grew

from 1,293,401 tons generated in 1993 to 2,066,448 tons in 2007 (see figure below), which corresponds to an annual compound growth rate over the 14-year period of 3.4 percent per year. The growth over this period, however, was neither uniform in all years nor sustained over the full period of the analysis. The SPO data show that solid waste quantities rose to 2,019,998 tons in 2003, then fell back below 2.0 million tons per year from 2004 through 2006 before increasing back above 2.0 million tons in 2007. On this basis, the compound growth rate was 4.6 percent per year from 1993 to 2003, but only 0.6 percent from 2003 to 2007. The SPO data then show that waste generation declined to 1,866,634 tons in 2008, a decrease of 8.7% in only one year. In other words, solid waste quantities increased from 1993 through 2003 at rates that are similar to those that SPO is projecting for the next 20 years --- but such growth ended in 2003. Solid waste quantities grew modestly, if at all, during the period of economic growth from 2003 through 2007. Even the SPO acknowledges that solid waste quantities fell substantially from 2007 to 2008. None of the recent data on solid waste quantities since 2003 support the 2.8% growth rate for Maine waste suggested by the SPO going forward.



The SPO has acknowledged in past Reports that some growth in waste generation from 1993 to 2003 might be attributable to improvements in data collection over that period as, in each successive year, the SPO was able to capture more precise waste generation numbers. This acknowledgement vastly understates the impacts of the evolving level of data collection on the SPO's conclusions. In its 1998 Report, the SPO indicated that CDD generation had ranged from 42,000 tons in 1991 to 96,113 tons in 1995 --- far less than the 317,490 tons of CDD generation indicated for 2007 and 298,145 tons for 2008. It is simply not plausible that CDD quantities grew by 15.7 percent per year from 1995 to 2003, but only by 0.8 percent per year from 2003 to 2007 in a period of relatively prosperity. Much of the increase from 1995 to 2003 must be the result of data collection improvements rather than actual growth in actual overall tons of Maine solid waste. This effect further undermines the historical basis for SPO's assumed future growth rate of 2.8% per year in the 2010 Report.

The SPO has recently released an analysis that attempts to correlate rates of solid waste generation with retail sales as a measure of commercial activity those results in generation of

solid waste. Those analyses rely on the historical data on solid waste generation rates described above, the validity of which are tainted by the impacts of the evolving level of data collection. The SPO does not have historical data that distinguish adequately between various types of solid waste (MSW, CDD, special wastes, residuals from processing, etc.) as would be required to perform a proper analysis. The MRC believes such analyses are flawed and misleading rather than helpful.

- **SPO projections of population and economic activity.** The 2009 and 2010 Reports state that changes in waste quantities are driven by changes in population and economic activity. SPO has issued projections indicating that Maine's population will grow at an annual compound growth of less than one percent per year in the near future. One projection is for a compound growth rate of only 0.38 percent per year through 2030. In addition, SPO's most recent economic forecast continues to indicate job losses, economic decline, and significant uncertainty regarding the timing of the recovery, with only a modest recovery predicted (Report of the Consensus Economic Forecasting Commission, February 2010). Neither of these indications support the SPO's assumption that waste quantities will increase consistently by 2.8% per year. Indeed, the SPO data indicate that solid waste quantities showed little or no growth despite intervening economic times that were relatively prosperous. If solid waste generation did not grow appreciably during the last cycle of good times, why should waste generation be projected to grow at a greater rate during the next cycle of economic growth?
- 4. **Competition for in-state MSW.** The numbers notwithstanding, the Committee should be cognizant of the fact that the operators of PERC and of Maine's other waste-to-energy facilities are constantly making inquiries regarding the availability of additional MSW generated in Maine. The reality is that such MSW is not to be found because it is the case, at present, as in the past, that the amount of MSW that Maine's waste-to-energy facilities can accept is greater than the available supply of MSW generated within the state and requiring disposal. This imbalance is true on an annual basis --- and is exacerbated during the winter months, when waste generation rates are at seasonal lows. Increases in solid waste generation of the type projected by SPO are simply not consistent with market conditions "on the ground" as reported by facility staff that actually seeks to acquire such MSW.

In the view of the MRC, all of the above support the projection that the quantities of solid waste and MSW being generated in Maine are stable or declining rather than growing. Thus, it follows that SPO is severely overstating the need for new recycling and landfill disposal capacity over the next 20 years.

- 5. **Projecting Future Landfill Disposal Capacity.** The Committee has heard reports indicating that the future fill rate at the state-owned landfill will be much greater than was initially

expected. The state-owned landfill received 542,364 tons of waste in 2009, which is slightly above the range of 450,000 to 540,000 tons per year anticipated in the landfill's permitting documents. However, in the last three months of 2009, the monthly average rose to 54,055 tons. This three-month fill rate sustained for 12 months would total 648,664 tons per year. MRC projects that if the state-owned landfill accepts an additional 310,000 tons per year over the 2009 acceptance rate, the currently licensed airspace would be exhausted in 2016 – the same timeframe reported by SPO. The Committee has discussed the recent trend of sharp upward fill rate is attributable to C/DD, Bulky Waste and C/DD residuals. This is evidenced by May 2010 receipts at the landfill. A total of 28,415 tons from all sources of C/DD material was landfilled in May, amounting to 48% of total landfill receipts for the month. This percentage fraction is well above the 2008 figure of 23.5%.

These trends have implications for long term planning. While MRC believes that contractual commitments and settled expectations are important and need to be respected, the absence of some type of annual fill rate at state-owned and/or grandfathered commercial landfills creates continued uncertainty over landfill capacity. The specter of real or perceived capacity gaps may lead us down the road to future permitted airspace that may or not be needed by Maine generators of waste. Oversupply of landfill capacity can undermine the efforts to reduce waste and otherwise conform to the state's solid waste management hierarchy.

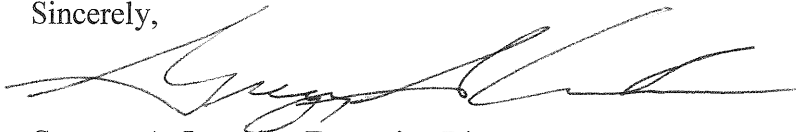
6. **Future Recycling Capacity.** Regarding recycling capacity, the MRC has received no reports from its member communities that current recycling infrastructure is inadequate to support recycling programs into the future at the current diversion rates. In fact, several MRC members are seriously evaluating single sort recycling that would replace local processing of recyclables in some cases and utilize: 1) recycling processing capacity that recently came on line at the ecomaine facility in Portland or 2) processing capacity owned by Casella companies outside the state. Thus, it's unclear at this time what in-state municipal recycling processing and program needs will be. Increased recycling infrastructure may not be needed to sustain current processing programs, although some investments might be needed to expand existing programs to recover additional materials or to recover materials from new sources. More detailed analysis is needed to target wise recycling program investments.

Regarding landfill capacity utilization, simply stated, quantities of Maine-generated MSW and solid waste are not increasing, and will not do so any time soon. The MRC believes strongly in the hierarchy of solid waste management methods, which, to the greatest extent feasible while respecting past investment in disposal facilities, would mandate that MSW be delivered to PERC and other waste-to-energy facilities for efficient recovery of energy from waste combustion rather than be delivered to any landfill. With the demand for Maine-generated MSW at Maine waste-to-energy facilities exceeding the supply, landfill capacity might be needed for residuals

from waste processing, but it is not needed for MSW disposal. Thus, the MRC believes strongly that the state should retain, and enforce, the existing limitations on acceptance of MSW for disposal at landfills and apply such limitations to any expansions. In addition, as a consequence, waste-to-energy facilities such as PERC will continue to retain at least their present level of need for imported MSW through 2018, especially during the winter, when MSW generation rates decline to seasonal lows, in order to operate at full capacity. Finally, we urge the Committee to implement some type of annual fill rate at state-owned and/or grandfathered commercial landfills to address future uncertainty over landfill capacity gaps in the future. In the meantime, MRC is planning for a post 2018 future with less waste by evaluating scenarios by which the PERC facility can be operated on a scaled-back basis to serve only Maine-based charter municipalities.

We thank you for this opportunity to provide these comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gregory A. Louder', written over a horizontal line.

Gregory A. Louder, Executive Director